

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

PIERCE FLOORING, INC. d/b/a  
PIERCE FLOORING & DESIGN, a  
Montana Corporation,

Plaintiff,

vs.

ARMSTRONG FLOORING, INC., a  
Pennsylvania Corporation,

Defendant,

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ARMSTRONG FLOORING, INC., a  
Delaware Corporation,

Third Party Plaintiff,

vs.

VALLEY FLOORING, LLC, a  
Montana Limited Liability Company,

Third Party Defendant.

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CV 20–49–M–DLC–KLD

ORDER

Before the Court is the parties’ Stipulation for Dismissal With Prejudice. (Doc. 43.) Plaintiff Pierce Flooring, Inc. and Defendant Armstrong Flooring, Inc. stipulate to the dismissal of this matter with prejudice under Rule 41(a)(1)(A)(ii), with each party to bear its own costs and fees. (*Id.* at 2.) Although the Stipulation

does not cite Rule 41(c)(1), the Court construes the Stipulation's request to dismiss "the above matter with prejudice as fully resolved on the merits" to include dismissal of Armstrong Flooring, Inc.'s third-party claims against Third-Party Defendant Valley Flooring, LLC, which never appeared in this action or filed a responsive pleading. *See* Fed. R. Civ. P. 41(c)(1) (permitting voluntary dismissal of third-party claims "before a responsive pleading is served").

Accordingly, IT IS ORDERED that this case is DISMISSED WITH PREJUDICE pursuant to the parties' Stipulation (Doc. 43) and Rule 41(a)(1)(A)(ii) and 41(c)(1) of the Federal Rules of Civil Procedure, with each party to bear its own costs and fees. The Clerk of Court is directed to close the case file.

DATED this 16th day of November, 2021.



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Dana L. Christensen, District Judge  
United States District Court